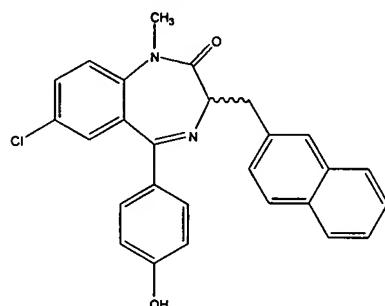


## REMARKS

Claims 1-5 are pending. The Applicants now amend the Specification so as to correct an inadvertent error corresponding to the chemical structure of the compound "Bz-423." This amendment does not constitute new matter. The Specification on page 1, lines 4-17, indicates that the present application is, "...a Continuation in Part of U.S. Patent Application Serial No.: 10/217,878, filed August 13, 2002, which is a continuation of U.S. Patent Application Serial No.: 09/767,283, filed January 22, 2001, which is a continuation of U.S. Patent Application Serial No.: 09/700,101, filed November 8, 2000...Each aforementioned application is specifically incorporated herein by reference in its entirety." In these applications, the compound "Bz-423" is



described as the following compound: (see, e.g., U.S. Patent Application Publication No. US 2003/0119029 at page 16, paragraph [0181]; U.S. Patent Application Publication No. US 2001/0016583 at page 3, paragraph [0037] and Figure 5; and U.S. Patent Application Serial No. 09/700,101 at page 7, line 7 and Figure 5). The current amendment to the Specification changes the description of "Bz-423" such that it is consistent with the applications from which the present application claims priority, and as such, the amendment does not constitute new matter.

In the Restriction Requirement mailed December 29, 2005, the Examiner restricted Claims 1-5 into the following three groups:

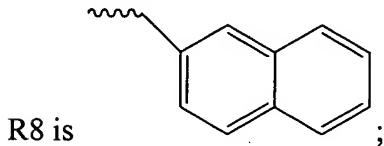
- I. Claim 1-23, drawn to a method of treating a condition associated with
- II. Claims 2-4, drawn to a method of treating a vessel using the composition comprising a compound of formula as recited in claim 1; and
- III. Claim 5, drawn to a method of regulating a cellular death using the composition comprising a compound of formula as recited in claim 1.

Restriction Requirement, page 2. The Applicant herein elects, without traverse, to prosecute the claims of Group I. The Applicant also herein cancels Claims 2-5 in order to further their business interests and the prosecution of the present application, yet without acquiescing to the

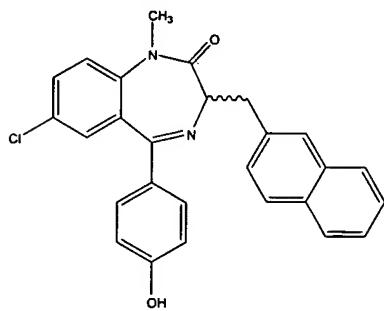
Examiner's arguments, and while preserving the right to prosecute the canceled (or similar) claims in the future. In addition, the Applicant provides new Claims 6-20. Support for new Claims 6-11 is located, for example, in the Specification at pages 55-56. Support for new Claims 12-20 is located at, for example, page 93, lines 12-27. New Claims 6-20 do not constitute new matter.

The Examiner further states, "Upon the election of a patentably distinct invention, applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable." Restriction Requirement, page 4.

The Applicants herein elect within Group I the formula described in Claim 1, wherein:  
R1, R2, R3 and R4 is H;  
R5 is OH;  
R6 is Cl;  
R7 is CH<sub>3</sub>; and



such that the positioning of R1-R8 results in the following formula:



Claims 1 and 6-20 are readable upon the species selections. As this is a species election, the remaining non-elected species will be examined, should the elected species be found allowable.

## **CONCLUSION**

As such, Claims 1 and 6-20 are pending and under examination following entry of Applicant's response to the outstanding Restriction requirement. Should the Examiner believe

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that a telephone interview would aid in the prosecution of this application Applicants encourage the Examiner to call the undersigned collect at (608) 218-6900.

Dated: 2/28/2006

  
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